IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1368 of 1990
WITH
X-OBJECTION NO. 11213 OF 1991
AND
CIVIL APPLICATION NO. 5500 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

DIPAKBHAI CHHOTALAL DAVE SINCE DECEASED THRO'HIS HEIRS

Appearance:
1. First Appeal No. 1368 of 1990
MR HC RAVAL for Petitioner No. 1
MR. MJ SHELAT for Respondent No. 1-2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 20/03/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1. Vide order dated 17-3-2003 this matter was directed to be listed on 20-3-2003, i.e. today. Since the matter has not been listed today, on the request of Mr. M.J. Shelat, advocate for the respondents-original claimants and Mr. H.C. Raval, advocate for the appellant, this matter is called from the office and is taken up for final disposal.

2. Heard Mr. H.C. Raval for the appellant Corporation and Mr. M.J. Shelat for respondent no.1 & 2 original claimants.

3. This appeal is directed against the award dated 31-7-1989 rendered in M.A.C. Petition No. 502 of 1987 by M.A.C. Tribunal (Auxi) Vadodara. In the accident dated 5-5-1987 a young boy Nikhil Dipak Dave, aged 18 years lost his life. It is submitted by Mr. H.C. Raval for the appellant that the claims Tribunal has erred in adopting multiplier of 20 years purchase factor since the deceased was approximately 18 years and few months on the date of accident. Mr. M.J. Shelat for respondents No.1 & 2 - original claimants states that, looking to the age of the deceased on the date of accident appropriate multiplier be adopted.

4. The only submission advanced in this appeal on behalf of the appellant as well as respondent No.1 & 2 is with regard to the application of proper multiplier. The Claims Tribunal has assessed the future/prospective income of the deceased at Rs.600/- per month as deceased was a student aged about 19 years and deducting 1/3rd amount for personal expenses, estimated the income of the deceased at Rs.400/- per month, and applying the multiplier of 20 years purchase factor, the Tribunal awarded amount of Rs.96,000/- under the head of Loss Of Dependency Benefit. In our opinion, looking to the age of the deceased, the multiplier adopted by the Claims Tribunal deserves to be interfered with, as the adoption of multiplier of 20 years is on higher side.

5. In view of the above, proper multiplier which should be adopted in the present case would be 16 years purchase factor. Taking the income of the deceased at Rs.400/- per month and applying the multiplier of 16

years, the loss of dependency benefit comes to Rs.76,800/-.

6. As the learned advocate appearing for the parties agree to the multiplier of 16, and as there is no other point agitated, the appeal deserves to be partly allowed to the extent of adopting multiplier of 16 years purchase factor.

7. In view of the above, the appeal is partly allowed to the above extent. The impugned award dated 31-7-1989 in M.A.C. Petition No. 502 of 1987 by M.A.C. Tribunal (Auxi) Vadodara is modified accordingly.

8. In X-Objection No. 11213 of 1991

It is stated by Mr. M.J. Shelat, learned advocate for the original claimants that this application under Order 41 Rule 22 of Civil Procedure Code is not pressed and be permitted to be withdrawn in view of the judgment in F.A. No. 1368 of 1990.

9. In C.A. No. 5500 of 2002:

In view of the order in First Appeal No. 1368 of 1990, this civil application is dismissed as not surviving.

10. Let R & P of the Claims Tribunal be returned forthwith.

Dt: 20-3-2003 (N.G. Nandi, J)

(D.A. Mehta, J)

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